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REMARKS

Claims 1-58 are pending in the present Application. Claims 40-44 have been allowed, Claims 2, 5, 10, 12, 15, 20, 26, 29, 34, and 36-39 have been cancelled, Claims 1, 6, 11, 16, 22-23, 32, and 50 have been amended, Claims 59-62 have been added, leaving Claims 1, 3-4, 6-9, 11, 13-14, 16-19, 21-25, 27-28, 30-33, 35-39 and 45-62 for further consideration upon entry of this amendment.

Antecedent basis for the amendment to Claims 1, 6, 11, 16, 22-23, 32, and 50 and new Claim 62 can at least be found in the specification at paragraph [0032].

Antecedent basis for new Claim 59-61 can at least be found in the specification at paragraphs [0024] and [0027].

No new matter has been introduced by these amendments. Reconsideration and allowance of the claims is respectfully requested in view of the following remarks.

Claim Rejections Under 35 U.S.C. §102(b)

Claims 1-39, and 45-58 stand rejected under 35 U.S.C. §102(b), as allegedly anticipated by U.S. Patent No. 5,834,535 to Abu-Isa et al. Applicant respectfully traverses this rejection.

Applicant's independent Claims 1, 11, 22, 23, 45, and 50 all comprise, *inter alia*, an intumescent elastomeric thermoplastic material comprising graphite.

Applicant's independent Claim 52 is directed to a method for forming a coated article, comprising, *inter alia*, disposing an intumescent elastomeric thermoplastic composition onto an article; and forming a coating on said article.

Abu-Isa et al. teach an intumescent thermoplastic elastomer molding composition. (Abstract). Abu-Isa et al. teach glass fibers, mica particles and/or titanium oxide powder as a filler. (Col. 3, lines 26-29). Abu-Isa et al. further teach that antimony oxide further imparts fire retardancy to the intumescent material. (Col. 3, lines 31-32).

To anticipate a claim, a reference must disclose each and every element of the claim. *Lewmar Marine v. Varient Inc.*, 3 U.S.P.Q.2d 1766 (Fed. Cir. 1987).

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In making the Examiner alleged that

Abu Isa discloses intumescent thermoplastic molding compositions comprising HDPE, chlorinated polyethylene, plastizer, MgO, dihydrogen phosphate, distearylthiodipropionate, SbO, titanium oxide, pentaerythritol, graphite and corn starch.

Applicants respectfully disagree with the Examiner. Although the Examiner alleged that Abu Isa et al. teach graphite, Applicant could not find any teaching of graphite in Abu Isa et al. Rather, Abu-Isa et al. teach glass fibers, mica particles and/or titanium oxide powder as a filler. (Col. 3, lines 26-29). Abu-Isa et al. further teach that antimony oxide further imparts fire retardancy to the intumescent material. (Col. 3, lines 31-32). However, absent in Abu-Isa et al. is any teaching of graphite. In contrast to Abu-Isa et al., independent Claims 1, 11, 22, 23, 45, and 50 all disclose graphite. Since Abu-Isa et al. at least fail to teach graphite, each and every element of Applicant's independent claims has not been taught. According, independent claims 1, 11, 22, 23, 45, and 50 are not anticipated or even rendered obvious by Abu-Isa et al. Moreover, any claim depending from those independent claims, are, by definition, also allowable.

With regard to independent Claim 52, this claim discloses a method for forming a coated article. In contrast, Abu-Isa et al. teach using the intumescent elastomeric composition used in molding. They teach that the thermoplastic elastomer may be used in compression molding, injection molding, extrusion, vacuum forming and blow molding. (Col. 2, lines 7-9). Further, it appears that Abu-Isa et al. are teaching away from using their elastomeric composition for coatings. They teach, "while intumescent coatings have been available, they are not always easy to apply where needed and they can serve no purpose other than as a coating." (Col. 1, lines 35-37). Further, Abu-Isa et al. disclose that "[i]t would be desirable to provide moldable thermoplastic compositions having intumescent properties. Such moldable thermoplastic compositions could be shaped into a useful part or article". (Col. 1, lines 39-41). Since Abu-Isa et al. do not teach "forming a coating on" an article, Abu-Isa et al. do not teach each and every element of that claim. Accordingly, independent Claim 52 is not anticipated. Moreover, as a dependent claim from an allowable independent claim, Claims 53-58 are, by definition, also allowable.

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It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicant. Accordingly, reconsideration and allowance is requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

Respectfully submitted,

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